



## CITY OF DANBURY

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DANBURY, CONNECTICUT 06810

ZONING COMMISSION  
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### MINUTES OCTOBER 25, 2005

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The meeting was called to order by Chairman Jack Knapp Jr. at 7:30PM.

Present were Theresa Buzaid, Christine Cuhsnick, Theodore Haddad Jr., Patrick Johnston, Donald Kennedy, Jack H. Knapp Jr. and Alternates Jean Anderson, Ted Farah and Helen Hoffstaetter. Also present was Planning Director Dennis Elpern.

Absent were Richard P. Jowdy, Dr. Joseph Mooney and Lenny Silva.

Chairman Knapp asked Mrs. Anderson to sit for Mr. Jowdy, Mr. Farah for Dr. Mooney and Ms. Hoffstaetter for Mr. Silva for the items on tonight's agenda.

Chairman Knapp led the Commission in the Pledge of Allegiance. He then announced that the next meeting will be held on November 15, 2005. This will be a special meeting since the regular meeting which was scheduled for November 8, 2005 was cancelled because it is Election Day.

Chairman Knapp announced that the following matter has been withdrawn by the applicant: Petition of 46 Mill Plain LLC, Amity Lane (#E15041) for Change of Zone from RA-40 to CA-80 Zone.

Chairman Knapp announced that the minutes of October 11, 2005 are not quite complete so they will table the acceptance of them until the next meeting.

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#### PUBLIC HEARINGS:

7:30 PM - Petition of City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 3.H.3., 4.A.3. & 9.B.1. of the Zoning Regulations (Lot frontage, minimum lot width and non-conforming lots).

Mrs. Cuhsnick read the legal notice. Chairman Knapp read the Planning Department Staff Report dated September 21, 2005 and the Planning Commission recommendation which was positive.

Dennis Elpern spoke in favor of the petition. He explained each of these little changes, saying they were mostly clarifications of things included in the original petitions. There were no questions from the Commission members.

Romolo DeGrazia read a letter containing some his ideas on how to improve condos and multi family development.

Chairman Knapp asked if there was anyone to speak in opposition to this petition and there was no one.

Mrs. Cuhsnick made a motion to close the public hearing. Mr. Johnston seconded the motion. Mrs. Cuhsnick then made a motion to move this matter to item four under Old Business. Ms. Hoffstaetter seconded the motion.

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7:45 PM – Petition of Mohammed Uddin d/b/a Dhaka City Store, 216 White St. (#J13034) for a Special Permit for the Sale of Grocery Beer.

Mrs. Cuhsnick read the legal notice regarding the petition. Mr. Elpern reviewed the general criteria for approval of a special permit as well as the definition of grocery store. Mr. Haddad asked if the definition of grocery store has changed since the previous petition was denied. Mr. Elpern said it has not changed.

Mohammed Uddin said he has been in business at this location for three years and he thought he could not get a beer license because Central Market had one. Since Central Market has closed, he was hoping to pick up that business. Mr. Haddad asked if he has any college students as customers and what percentage of his business will be beer. Also will the beer be sold cold or hot? Mrs. Buzaid asked what kind of groceries he sells. Mr. Uddin said the pre-packaged food, canned goods, lotto tickets, and dairy items. Mrs. Buzaid then asked what percentage of college students frequent his store. Mr. Uddin said only about 2%. Mrs. Buzaid then asked if the majority of his customers are neighbors in the immediate vicinity. Mr. Uddin said yes, it is a neighborhood store. Mrs. Buzaid asked if he makes sandwiches and he said no, he used to but he stopped. Mrs. Buzaid said that years ago before Arthur Treacher's and Wendy's, there was a bar where the Wrap and Roll is now. Ms. Hoffstaetter asked if he runs the store by himself and he said mostly he does it by himself. Ms. Hoffstaetter then asked what he will do to prevent underage people from buying. Mr. Uddin said he will not sell to them. Mr. Haddad asked the square footage of the store. Mr. Uddin said it small, about 660 sq.ft. Mr. Haddad asked how much of that space will be devoted to storing the beer. Mr. Uddin said he said he will put some in the cooler and keep the rest on a shelf. Mrs. Buzaid asked if he hires students and he said no. Mr. Johnston asked how long Central Market has been out of business. Mr. Uddin said maybe five months. Mr. Farah asked Mr. Uddin if his store is similar to the one next to the Holiday Diner. Mr. Uddin said yes, but smaller. Mrs. Anderson asked about the church located behind WCSU. Someone said it was moving. There were no other questions at this time.

Chairman Knapp asked if there was anyone to speak in opposition to this petition and several people came forward.

Joe Notaro, 3 Crescent Dr., is a student at WCSU and does not think it is a good idea to have a place this close to the college selling beer. There are always students trying to find a way or a lenient place to buy beer.

Alexander Sutor, Clapboard Ridge Rd., is familiar with this store and thinks this is not a good location to sell beer. There are a lot of people hanging out in the street and this could just lead to more problems. Said he and his wife often take their kids to Double Twister and have often seen trouble with people hanging out here. He said often after 6 PM, he sees them hanging out on Durant St., by the Matz garage doors and by Double Twister. Ms. Hoffstaetter asked if he sees them drinking beer. Mr. Sutor said no, but the convenience of having it available right around the corner might make it easier for them to start.

Mr. Uddin spoke in rebuttal. He said Double Twister is going to move down the street, so there will not be as many people hanging around. Mrs. Buzaid asked him what hours his store is open. He said 7AM to 9PM, Monday thru Saturday and closed Sunday.

Mrs. Cuhsnick motion to close public hearing. Ms. Hoffstaetter seconded the motion. Mrs. Cuhsnick motion to move this matter to item five under Old Business. Mr. Kennedy seconded the motion.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

- 1) Petition of the City of Danbury by Dennis I. Elpern to Amend Secs. 2.B., 3.I.2., 4.B., 4.C., 4.D., 4.G., 10.B. & 10.D. of the Zoning Regulations. (MORATORIUM AMENDMENTS – Revise Definitions, Accessory Uses, RMF, R-3, & RH-3 Zones, Zoning Permit and Site Plan Regulations.) *Public hearing closed 9/27/05 – 65 days will be up 12/1/05.*

Chairman Knapp said eligible to vote on this petition were Mrs. Buzaid, Mrs. Cuhsnick, Mr. Haddad, Mr. Johnston, Mr. Kennedy, Mrs. Anderson, Mr. Farah, Ms. Hoffstaetter and himself. He asked if the Commission was ready to make a motion.

Mrs. Cuhsnick made a motion to approve this for the following reason:

- These are consistent with the Plan of Conservation & Development, which is the guide for all future development in the City.

Ms. Hoffstaetter seconded the motion. Chairman Knapp called a roll call vote and the motion to approve was passed unanimously with nine AYES.

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- 2) Petition of the City of Danbury by Dennis I. Elpern to Amend Secs. 3.E., 3.G., 4.A. & 4.E. of the Zoning Regulations. (Revise RA & RR-10 Zones and Accessory Apts.). *Public hearing closed 9/27/05 – 65 days will be up 12/1/05.*

Chairman Knapp said eligible to vote on this petition were Mrs. Buzaid, Mrs. Cuhsnick, Mr. Haddad, Mr. Johnston, Mr. Kennedy, Mrs. Anderson, Mr. Farah, Ms. Hoffstaetter and himself. He asked if the Commission was ready to make a motion.

Mrs. Cuhsnick made a motion to approve this for the following reason:

- These will provide more clarification and are consistent with the Plan of Conservation & Development, which is the guide for all future development in the City.

Mr. Johnston seconded the motion. Chairman Knapp called a roll call vote and the motion to approve was passed unanimously with nine AYES.

Mr. Elpern then pointed out that the petition they heard tonight undoes a section of this petition. He suggested they amend their motion to say that the minimum lot width for all dwellings in RA zones will be 50 ft.. None of the Commission members chose to do that so Chairman Knapp suggested they just vote on the motion as presented. He then called a roll call vote on the Mrs. Cuhsnick's motion as seconded by Mr. Johnston and it was passed with eight AYES (from Mrs. Cuhsnick, Mr. Haddad, Mr. Johnston, Mr. Kennedy, Mrs. Anderson, Mr. Farah, Ms. Hoffstaetter and Chairman Knapp) and one NAY (from Mrs. Buzaid).

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3) Petition of 46 Mill Plain LLC, Rear Portion of 3-5, 7-9, 13 Mill Plain Rd and Amity Lane (#E15038, #E15040 & northerly portion of #E15039) for Change of Zone from RA-40 to CRP Zone. *Public hearing closed 10/11/05 – 65 days will be up 12/14/05.*

Chairman Knapp said that Mrs. Anderson had listened to the tapes and is eligible to vote on this petition. He said also eligible were Mrs. Buzaid, Mrs. Cuhsnick, Mr. Haddad, Mr. Johnston, Mr. Kennedy, Mr. Farah, Ms. Hoffstaetter and himself. He asked if the Commission was ready to make a motion.

Mr. Johnston made a motion to deny this petition for the following reasons (*these are verbatim*):

- *The land does not comply with the Plan of Conservation and Development, which designates it as single family on the "Land Development Plan Map." The CRP zoning district is included as a commercial zoning district in the Zoning Regulations.*
- *The proposed rezoning to CRP, a commercial zoning district, proposes access via Amity Lane across a residential district (RA-40), in violation of 8.B.2. of the Zoning Regulations. To remedy this, a separate petition was filed and I believe was withdrawn at this point, to change the zoning of a portion of Amity Lane and a lot under separate ownership to CA-80. Approval of this petition would require approval of the other, an assumption we cannot make. No alternate access was presented which would otherwise avoid residentially zoned land.*

- *Given the potential uses and intensity of development on the site as specified in the CRP regulations, the proposed rezoning could have a serious impact on congestion and safety of Mill Plain Road, a road for which the construction of improvements which may alleviate existing congestion and safety is not scheduled by CT DOT to commence until 2009, although there is no guarantee such will take place at that time. 8-2 of the Connecticut General Statutes states that "...such regulations shall be designed to lessen congestion in the streets...and to facilitate the adequate provision for transportation..." There is no indication that the petitioner has addressed these concerns. Approval of the rezoning would imply that an application for site plan approval could be submitted soon and not until after road improvements were completed.*
- *Amity Lane is a private street with a 15 foot wide travel lane and a 20 foot wide right-of-way. This is a substandard means of access which cannot be widened without the approval or acquisition of adjacent property. A new driveway across the other lands of the petitioner from Mill Plain Road to the site would require a minimum width of 20 feet for two-way travel and maximum grades of 12 percent; a new road constructed to City standards would have to meet stricter standards. We have received no information to indicate that this is feasible given the constraints of the property.*
- *The proposed site is laced with steep slopes which will hinder construction of roads, buildings, and parking and will probably require extensive grading.*

Mrs. Cuhsnick seconded the motion. Mr. Haddad said he is not prepared to vote as he has not done an on-site visit. Mrs. Buzaid said she wants the minutes before she votes. Chairman Knapp then asked Mr. Elpern about Amity Lane. He said he had spoken to the Assistant City Engineer and she said this is a private road, although the City takes care of it. Mrs. Cuhsnick said she is opposed to tabling this. She said this hearing was all about the people involved, although she does not know either side, this should be about the property not about the people. She said she did not feel that the opposition had behaved appropriately during the public hearing, which made it difficult to focus on the issue before them. She said she respect the requests for minutes and on-site visits, but would like to vote on this tonight. Mr. Farah said if some of the members need more time, they should have it. Chairman Knapp said he agreed and it has always been this Commission's policy to table a vote if one member requests it. Mr. Haddad said he will not vote if they vote tonight. Mrs. Anderson then made a motion to table this matter until the next meeting. Mrs. Buzaid seconded that motion. Chairman Knapp clarified that tabling this meant that the motion to deny with its second was still on the floor and at the next meeting, they will have to vote on the motion to deny. He then called a roll call vote on the motion to table and it was passed with eight AYES (Mrs. Anderson, Mrs. Buzaid, Mr. Haddad, Mr. Johnston, Mr. Kennedy, Mr. Farah, Ms. Hoffstaetter and Chairman Knapp) and one NAY (from Mrs. Cuhsnick). Chairman Knapp reiterated that they can only table this matter once, at the next meeting they will have to vote on the motion on the floor.

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- 4) Petition of City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 3.H.3., 4.A.3. & 9.B.1. of the Zoning Regulations (Lot frontage, minimum lot width and non-conforming lots).

Chairman Knapp said they had heard this earlier in the meeting. He asked if any of the Commission members wanted to make a motion. Mr. Johnston made a motion to approve this for the following reasons:

- These will promote the recommendations in the Plan of Conservation & Development, which is the guide for all future development in the City.

Ms. Hoffstaetter seconded the motion and it was passed unanimously by roll call vote.

Mr. Elpern noted for the record, passage of this amendment changes some of the language that was approved in the petition which was listed as item 2 on the Old Business agenda.

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5) Petition of Mohammed Uddin d/b/a Dhaka City Store, 216 White St. (#J13034) for a Special Permit for the Sale of Grocery Beer.

Chairman Knapp said they had heard this earlier in the meeting. He asked if any of the Commission members wanted to make a motion. Mr. Haddad made a motion to deny this for all the same reasons as the previous denial:

- The proximity and location of this business would have a detrimental effect on the churches, schools (specifically WCSU) and charitable institutions in the immediate area, due consideration given to the character of the surrounding neighborhood. There is concern since much of the traffic in this neighborhood comes from college students.

Mrs. Cuhsnick seconded the motion. Chairman Knapp asked if anyone had any comments. Mr. Haddad asked for the exact dimensions of the space from the lease. The secretary read them from the affidavit in the file. Mr. Johnston then said he is not familiar with this property and would like to have time to look at it and the immediate area. He then made a motion to table this matter until the next meeting. Mr. Farah seconded the motion and it was passed with seven AYES (Mrs. Anderson, Mrs. Buzaid, Mr. Haddad, Mr. Johnston, Mr. Farah, Ms. Hoffstaetter and Chairman Knapp) and two NAYS (from Mrs. Cuhsnick and Mr. Kennedy). Chairman Knapp again stated that they can only table this matter once, at the next meeting they will have to vote on the motion on the floor.

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Communications consisted of two Cease & Desist Orders and the For Reference Only listed the public hearing scheduled for November 15, 2005.

At 10:00 PM Mr. Johnston made a motion to adjourn. Mrs. Buzaid seconded the motion and it was passed unanimously.